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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 21 March 1996, at 4 p.m.

Chairman: Mr. VERGNE SABOIA (Brazil)

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Any corrections to the records of the public meetings of the Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.96-11800 (E)

The meeting was called to order at 4.10 p.m.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF MEXICO

1. Mr. GONZALEZ GALVEZ (Mexico) said that, in international affairs, his Government was committed to defending the rule of law, as a bastion against abuse, and respect for human rights. At the domestic level, President Zedillo had clearly stated that no one was above the law and that the Government planned to carry out constitutional reforms to overhaul completely the administration of justice.

2. Mexico cooperated fully with the various United Nations human rights mechanisms. The High Commissioner for Human Rights was to visit the country in April 1996 to attend a meeting of the Latin American ombudsmen, and the Government was trying to determine the best dates for a visit to Mexico by the Commission's thematic special rapporteurs. It had likewise invited the Inter-American Commission on Human Rights to pay a visit in 1996.

3. On the eve of the twenty-first century, his Government noted with concern that human rights were not fully respected throughout the world, particularly because of differing levels of national development, social injustice and poverty. Mexico had modernized its economy and, like other countries of the continent, was involved in a process of economic integration whose objective was to raise the peoples' standard of living. Despite the economic crisis that continued to rage, expenditure on social-development programmes had been significantly increased.

4. The events that had occurred in four municipalities of the State of Chiapas in early 1994 had revealed the inadequacy of the efforts to meet the legitimate aspirations of the largely indigenous inhabitants of that region, where marginalization and poverty prevailed. The Government of President Zedillo was determined to combat extreme poverty and to build a more united, juster and more democratic State. One of its priorities was to establish new relations with the indigenous communities. In an initial manifestation of that new relationship, an agreement had been concluded in Chiapas on 16 February 1996 between the Federal Government and the Ejército Zapatista de la Liberación Nacional (EZLN) concerning indigenous rights and culture. The conflict in Chiapas showed that it was possible to avoid serious, and perhaps irreparable, rents in a country's social fabric by taking rapid action to find political solutions to the legitimate demands of the various social groups.

5. His authorities were greatly concerned by the growing xenophobia evident in many countries, including highly developed ones. In an increasingly interdependent world, discriminatory treatment of minorities or migrants was unacceptable. A few days previously, representatives of Mexico, Canada, the United States of America and the Central American countries had met at Puebla, Mexico, to study the phenomenon of migration in all its complexity and to promote regional cooperation. In that connection, his Government called on all States to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In the

field of human rights, only treaties determined the international obligations of States: no country could unilaterally arrogate to itself the role of policeman of the world.

6. The reforms undertaken within the United Nations must take account of the role and importance of international cooperation; they must open the door to realistic programmes devoid of any politicization.

7. Lastly, he said that his delegation would like to see the inclusion in the Commission's agenda of a separate item on the question of indigenous populations.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (item 4 of the provisional agenda) (continued) (E/CN.4/1996/18 to 21, 108 and 120)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (item 7 of the provisional agenda) (continued) (E/CN.4/1996/26 and 27)

8. Mr. OZDEN (Centre Europe-Tiers Monde) said that many peoples were still deprived of the fundamental right to self-determination that had been proclaimed in 1960 in General Assembly resolution 1514 (XV) and set out in the two International Covenants on Human Rights. For example, the Kurds, numbering 30 million people, had not yet been able to form a nation State owing to the vicissitudes of history. Their fundamental rights continued to be violated before the very eyes of the international community. Mr. Ismail Besikçi, the famous Turkish sociologist who was defending the Kurdish cause, had been sentenced to 203 years in prison.

9. Kurdistan was still split up among a number of States of the region. In Turkey, Kurds had no official existence and four million of them had been forced into exile, in Iran, they were subjected to forced assimilation, in Syria, they had no social or political status and, in Iraq, though they were theoretically recognized by the Constitution, they were persecuted. The Security Council, in its resolution 688 (1991), had declared a portion of Iraqi Kurdistan north of the 36th parallel an "aerial exclusion zone"; legislative elections had been held under United Nations auspices in 1992 and Iraqi Kurdistan had theoretically been placed under United Nations protection. Nevertheless, the Turkish army and the Iranian army ravaged the region with total impunity. As if it was not enough to violate the rights of Kurds daily, Iraq, Iran, Syria and Turkey were constantly instigating fratricidal squabbles among Kurdish factions.

10. The common denominator of all those elements was a negation of the right to self-determination and of other fundamental rights of the Kurdish people. It was high time that the Kurdish people was allowed to regain its rights so that peace could return to the region.

11. Mr. PUNJABI (Himalayan Research and Cultural Foundation) said that the Commission must help peoples who lived under colonial or alien domination or foreign occupation to realize their right of self-determination. Its new interpretation of the right to self-determination had a special significance

for southern Asia, where societies sought both to preserve their specific ethnic and cultural traditions and to achieve greater participation in political life.

12. In the past, the Commission had already heard a number of comments about self-determination in Jammu and Kashmir. The special position granted to that territory in the Indian Constitution seemed to have been eroding for some time, but the Indian Constitution and democracy should be able to respond in a positive way to the aspirations of the Kashmiri people for greater decentralization of power.

13. The demand for self-determination was increasingly being voiced by groups that tended to base their identities not on the nation State but on ethnic origin, region, language and religion. To prevent such demands from resulting in a return to the closed and inward-looking societies of the past, the importance of stable borders and the nation State must be brought home to those who sought to form isolated societies.

14. Mr. GILANI (World Society of Victimology) said it was disturbing that the United Nations and the world community should make pledges concerning the right to self-determination and then allow the machinery of a State to engage in massive human rights abuses. Even though the United Nations had been concerned with the question of self-determination in Kashmir since 1948, the situation remained frozen. United Nations observers in Kashmir continued to supervise a cease-fire, the United Nations was still spending funds on Kashmir, the peace between India and Pakistan was still very precarious and the people of Kashmir were scattered throughout various territories, while the two countries involved spent enormous sums to maintain their military presence. In utter disregard of the supervisory role envisaged for it by the United Nations, India had engaged 44 per cent of its military strength in Kashmir in a struggle against an entire people.

15. The solution was nevertheless a very simple one: the Commission should demand to see the reports communicated to the Secretary-General by the United Nations military observers in Kashmir and the measures adopted by the United Nations concerning Kashmir should be reactivated. In the meantime, respect for the human rights of the people of Kashmir must be ensured in a tangled situation in which the United Nations, India, Pakistan, Indian-occupied Kashmir and Azad Kashmir were all involved. India, which had accepted the United Nations mandate with regard to the people of Kashmir, must satisfy that people's aspirations to self-determination and stop its persecution. The United Nations had been established 50 years previously, and the question of the right to self-determination of Kashmir had been on its agenda for 47 of those years. It was difficult to see how India, which owed its very being to the right to self-determination, could deny that right to the people of Kashmir, thereby jeopardizing peace in the region.

16. Mr. KHAN (International Movement against All Forms of Discrimination and Racism) said that, for the people of Kashmir, the tragedy had begun with the interference of India and Pakistan in the territory and its division into three parts: Indian-occupied Kashmir, Pakistani-occupied Kashmir, including the northern areas, and the area ceded to China by Pakistan. Yet India and Pakistan had, on many occasions, recognized the right to self-determination

of the people of Kashmir. Instead of abiding by the 1948 Security Council recommendation that a plebiscite be held to determine the wishes of the people of Kashmir, India and Pakistan had thrice gone to war, to their great human and economic loss.

17. In the area under Indian occupation, repression and persecution remained widespread and the Indian security forces were committing untold atrocities.

18. Pakistani-occupied Kashmir was divided into two parts: Azad Kashmir and Gilgit Baltistan. In Azad Kashmir, discrimination was integrated into the legal system, since no political party or individual could participate in elections without accepting the principle of the area's accession to Pakistan. In the northern areas, the people were living in stone-age conditions. According to Dr. Mahboob-ul-Haq, former Minister of Finance of Pakistan and Vice-President of the World Bank, India and Pakistan were spending more than US$ 20 billion every year on arms purchases. He had urged both India and Pakistan to hand over the entire State of Jammu and Kashmir, including Gilgit Baltistan, to the United Nations for a period of 10 to 15 years; he had also proposed that they unconditionally remove all forces of occupation and that the World Bank, the International Monetary Fund and the Group of Seven most developed countries (G-7) provide economic assistance to Jammu and Kashmir during that period. Once the area was on track to stabilization and social development, the people of Kashmir could then decide their own political future.

19. His organization appealed to the Commission to encourage India and Pakistan to accept that proposal, so as to facilitate the reunification of that divided state before it was too late.

20. Mr. BARKER (Australia), referring to the situation in the Middle East, said that the recently elected Australian Government had moved quickly to put on public record its strong commitment to supporting the peace process between Israel and the Palestinians. His Government deplored the recent terrorist attacks in Israel and welcomed the clear message delivered by the international community at the Sharm-El-Sheikh Summit that those who used terror to oppose peace would not be allowed to succeed. The Israeli and Palestinian authorities must combine their efforts to vanquish terrorism.

21. His Government welcomed the achievements of the Palestinian Authority in Gaza and the West Bank especially the Council elections, the development and management of economic infrastructure and the efforts to improve the security situation. It would continue to provide practical support for the peace process through full participation in the Water Resources and Arms Control and Regional Security (ACRS) working groups, which were areas where it believed that Australian expertise would be useful.

22. Mr. LEMINE (Mauritania) said that the considerable progress made in implementing the Declaration of Principles signed in Washington on 13 September 1993 and the other subsequent agreements, showed that the Middle East was definitely committed to peace because peace constituted for all the peoples of the region a strategic choice that would open up enormous prospects and bring them considerable advantages. However, solid and lasting peace had to be just and comprehensive and must, therefore, be based on law

and international legality. It should enable the Palestinian people to exercise their legitimate national rights, which meant the withdrawal of Israel from all occupied Arab territories, including the Syrian Golan and southern Lebanon.

23. As the Head of his Government had stated at the Sharm-El-Sheikh Summit of the Peacemakers, the peace process remained fraught with problems and the path to peace was still strewn with obstacles and dangers. Although there had been many such obstacles in recent months, they should nevertheless not shake the faith of the peacemakers; on the contrary, they must strengthen the commitment of all parties to peace, the best defence against violence.

24. The repressive measures adopted by Israel following the recent outrages were not conducive to peace and were more likely to fan the flames of violence rather than extinguish them. Actions favouring dialogue and understanding needed to be undertaken to restore the full confidence of populations traumatized by decades of occupation and repression. To consolidate peace, it was vital to improve the human rights situation in the occupied territories. That was not an impossible task given the ground already covered since Oslo. Although some challenges remained, any obstacles could be overcome if the political will existed.

25. Mr. MEJIA SOUS (Nicaragua) said he welcomed the agreements signed within the framework of the Middle East peace process which had rendered possible the recent holding of first elections to the Palestinian Council. However, despite the progress made, there were still many obstacles in the path to peace. The serious problem of extremism was one of them. His Government reiterated its unflinching support for any initiative aimed at combating terrorism in all its forms and, in that regard, had welcomed the holding of the Sharm-El-Sheikh Summit.

26. The economic and social development of the occupied Arab territories was the only way to achieve peace in the Middle East and establish good relations between Israelis and Palestinians. To that end, the international community must help the Palestinian Authority to become economically independent. The frequent sealing-off of the West Bank and Gaza Strip caused serious damage to the Palestinian economy and only heightened social unrest.

27. The Palestinian Authority and the Israeli Government - political entities responsible for the lives of millions of human beings - must work together in a spirit of confidence in order to guarantee both the security of Israel and the right of the Palestinian people to self-determination.

28. Mr. ZOZULIA (Ukraine) said that it was essential to examine the content of the right to self-determination, a complex right that had many ramifications in the lives of peoples and countries, in order to prevent inter-ethnic conflicts and conflicts between States. One of the components of that right was the right to territorial separation, which must be differentiated from territorial separatism.

29. As the President of Ukraine, Mr. Kuchma, had noted in the General Assembly on the occasion of the fiftieth anniversary of the United Nations, separatism, which was often a prime cause of local conflicts,

would be one of the most serious challenges of the twenty-first century. The Secretary-General, for his part, had noted that the twenty-first century would be torn between two contradictory trends: globalization and fragmentation.

30. On the one hand, the right to self-determination presupposed that a people or a nation had the right to separate itself territorially and establish an independent State. However, on the other hand, according to the Declaration on Principles of International Law concerning Friendly Relations and Cooperation Among States, that should not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States. Since there were no rules in international law to establish who could exercise the right to territorial separation and in what circumstances, filling that legal gap would assist the gradual development of the right to self-determination and would deprive separatist movements which did not meet the established criteria of a legitimate basis.

31. The following elements could serve as a basis for a legal instrument to regulate the application of the right to self-determination: the right to territorial separation could be granted only to an ethnic entity within the general framework of the right to national self-determination and the right to self-determination could not be granted to part of an ethnic group if that ethnic group already had a State outside the country, to an ethnic group which did not have a State institution if it was not the indigenous population group of the territory, or to an ethnic group which formed neither a compact community nor a majority in a specific territory, under certain conditions. The right could not be granted either if the ethnic entity was not subjected to discrimination, it being understood that measures adopted as part of migration policy should not be regarded as discriminatory. Any State would have the right, in defending its territorial integrity, to forestall separatist tendencies by taking steps to regulate immigration, provided that such steps were not incompatible with the general provisions of international law. Lastly, the right to territorial separation could not be granted if it was incompatible with the universally recognized standards and principles of international law.

32. His delegation was prepared to participate in the drafting of rules concerning the exercise of the right to self-determination. The effective realization of the right to self-determination through autonomy was one way dealing with certain situations.

33. His Government had granted considerable administrative autonomy to the Crimea in order to defuse tensions in that part of the country. Unfortunately, that had not been sufficient to silence certain political circles demanding the right to self-determination of a non-existent "Crimean people". The Crimea was one of the most ethnically diverse regions of Ukraine. The national, linguistic, religious and other minorities enjoyed all the rights and freedoms provided for by universally recognized international instruments, including the right to freedom of expression. His delegation would revert to that point under agenda item 16. However, it wished to stress the difference between the right to self-determination and the right to freedom of expression.

34. Moreover, since international law did not offer any definition as to who could exercise the right to self-determination, it would be useful to consider that question on the basis of the principle of causae sufficientis, on the one hand, and that of exceptis excipiendes, on the other. The former principle could be invoked, for instance, with respect to the draft declaration on the rights of indigenous peoples, while the latter could be invoked in connection with a universal convention on the rights of persons belonging to national or ethnic, religious and linguistic minorities.

35. He urged the international community to create the conditions for the legitimate exercise by all peoples of their rights to freedom of choice and to economic, social and cultural development, on the basis of balanced and mutually advantageous cooperation.

36. Mr. AHSAN (Bangladesh) said that the human rights violations committed in the occupied Arab territories, including Palestine, were all obviously linked to the continued occupation of those territories by Israel and the expansion of illegal settlements in the West Bank, despite official policy. However, the return of Yasser Arafat to the territories and his election as President of the Palestinian Authority, following democratic elections, marked the beginning of the achievement by the Palestinians of their dream of and yearning for an independent State. The peace initiatives between Israel and its Arab neighbours, especially the Peace Agreement signed with Jordan, still held out hopes of finding a solution to the Middle East conflict and establishing lasting peace in the region. In his delegation's view, however, it was essential to recognize the right of the Palestinians to self-determination, to their own land and to political association. While condemning mindless violence, particularly the recent atrocities against innocent civilians in Jerusalem, Tel Aviv and Ashkelon, it felt that isolated acts of terrorism must not be used as a pretext for reprisals against the entire Palestinian nation. As President Arafat himself had said, occupation, siege or the sealing-off of the territories, restrictive measures and collective punishment would not resolve the problem.

37. The transfer of certain powers to the Palestinian National Authority was indeed a positive development and the holding of democratic elections had demonstrated that the Palestinian leaders were capable of honouring their commitment to exercise power and assume responsibilities, with due regard for internationally recognized human rights standards and principles and the primacy of law.

38. However, their action would also be largely contingent on the acts of the Israeli authorities during the period of transition towards the establishment of a sovereign Palestinian State. Those authorities must, first of all, dismantle the illegal settlements in the occupied territories and take practical steps to safeguard the right of Palestinians to their land, means of subsistence and a State. They must, as a matter of urgency, stop their collective punishment of the population and make a distinction between terrorists who attacked civilians and the community or population to which such terrorists belonged. The individual or group of individuals who committed such acts of violence must always bear the responsibility for them. Failure to observe that principle in the case of the Palestinians would amount

to discrimination and constitute a violation of human rights principles. It would also strengthen the argument that collective punishments pushed young Palestinians towards extremism.

39. Mr. WIDODO (Indonesia) said that Indonesia had always supported the Palestinian people in its struggle to exercise its inalienable right to self-determination, safeguard its national independence and regain its territorial integrity, because Indonesia firmly believed that the independence of the Palestinian people was a sine qua non for achieving peace, security and stability in the region. Although Israel had established new relations with the State of Palestine as part of the peace process, it still continued its aggressive policies and expansionist practices in the occupied Arab territories and continued to apply repressive policies which constituted flagrant violations of internationally recognized human rights standards and humanitarian law. Such practices must cease immediately because peace, security and justice could not be built on the violation of the fundamental rights of the peoples concerned.

40. As for the question of East Timor, it was an undeniable historical fact that the people of East Timor had legitimately exercised their right to self-determination in accordance with the relevant resolutions of the United Nations General Assembly, and had opted to become part of Indonesia by the Balibo Declaration of 1975. Moreover, on 30 June 1995, the International Court of Justice had overwhelmingly rejected, by 14 votes to 2, Portugal's claim to be the administering power of East Timor. The Court took the view that the United Nations resolutions cited by Portugal to bolster its claim did not impose an obligation on States not to recognize any authority on the part of Indonesia over the territory and, where the latter was concerned, to deal only with Portugal. In that connection, he referred the Commission to pages 12 to 14 of the Secretary-General's report (E/CN.4/1996/56) which set out the individual opinions of four of the Court's judges. Moreover, the Government of Indonesia had agreed to engage in a dialogue with Portugal, under the auspices of the Secretary-General, with a view to achieving a just, comprehensive and internationally acceptable solution to the problem. His Government was still willing to engage in such a dialogue.

41. Mr. AKRAM (Pakistan) said it was tragic that the right of the people of Jammu and Kashmir to self-determination, a principle of international law enshrined in Articles 1 and 55 of the Charter and many other instruments, and reaffirmed in several United Nations resolutions, had yet to be exercised. In its resolutions 91 (1951) and 122 (1957), the Security Council affirmed that the unilateral actions taken by the occupying power, such as the convening of a constituent assembly, could not determine the future of the State of Jammu and Kashmir in accordance with the principle of a free and impartial plebiscite.

42. All the so-called elections "organized" in Kashmir had been rigged and fraudulent, including those held in 1989, when only 3 per cent of the people of Kashmir had participated. That was why, in late 1989, the Kashmiri people had launched a peaceful campaign to secure their freedom. That campaign had been savagely repressed, through the massive violations of human rights perpetrated by the occupying forces that had been documented by numerous international human rights organizations. Frustrated by the resistance of

the Kashmiris, who continued to struggle valiantly to exercise their right to self-determination, the occupying forces had resorted to new tactics and strategies, including subversion and intimidation, to retain their grip on power. They had even gone so far as to recruit mercenaries to discredit the Kashmiri freedom fighters and denigrate their legitimate struggle. All evidence pointed to the fact that the "Al-Faran Group", which had kidnapped four European tourists and killed one of them, was a counter-insurgency unit consisting of mercenaries and created by the occupying forces. Their attempts to organize fraudulent elections having been unanimously rejected by the people of Kashmir and its representatives, the occupying forces were resorting to direct attacks on those representatives. The recent abduction of Mr. Jalik Andrabi, who was still listed as missing, was part of a campaign of terror unleashed by the occupying forces in Jammu and Kashmir against the Kashmiri people. His delegation endorsed the demands of the non-governmental organizations (NGOs) for the immediate release of Mr. Andrabi and a halt to attacks on Kashmiri leaders.

43. There was only one possible solution to the Kashmir dispute, the only solution acceptable to the Kashmiri people, that of expressing their will freely through a fair and impartial plebiscite under the auspices of the United Nations. The time had come to resolve the issue of Kashmir in accordance with the wishes of the people, the dictates of justice and the resolutions of the Security Council.

44. The CHAIRMAN invited delegations wishing to speak in exercise of the right of reply to take the floor.

45. Mr. ASSADI (Observer for the Islamic Republic of Iran) said it was unfortunate that, the previous day, the Permanent Representative of the United States of America to the United Nations should have abused her privileged position as guest speaker to make accusations against certain countries and politicize the issue of human rights. That type of attack, customary for the United States, did not merit a response.

46. Nevertheless, to ensure that the Commission's work went smoothly, he would appreciate it if the Chairman would remind guest speakers of the general dictates of diplomatic etiquette. He would be particularly grateful if the Chairman - through the United States delegation - would inform Mrs. Albright that the Iranian delegation was ready and willing to debate, on an equal footing, the question of human rights in Iran, either within the Commission or in any other public setting, as long as it was agreed that the debate would also cover the way in which the United States Government had systematically violated the human rights of the Iranian people in various areas.

47. Mr. BENJELLOUN-TOUIMI (Observer for Morocco) said he wished to respond to the tendentious comments made the day before on the role of Morocco in the question of the Western Sahara. The process of drawing up a voter's list required cooperation between the two parties and, if the process had come to a halt, that was not the fault of Morocco. In that connection, he referred to the reports of the Secretary-General, particularly those contained in documents S/1995/779 (paras. 46 to 48) and S/1996/43 (paras. 27 and 28).

48. As far as openness and dialogue were concerned, those who advocated such measures should start by applying them themselves. Even though the settlement plan did not expressly provide for a dialogue, Morocco had never closed the door.

49. Lastly, he would be interested to see what evidence France-Libertés: Fondation Danielle Mitterrand and the International Association of Jurists could provide in support of their fallacious allegations.

50. Mr. LAMDAN (Observer for Israel) said that an outside observer, listening to the deeply prejudiced statements made the day before concerning his country, could have gained a totally distorted impression of Israel's position on human rights. It would seem that the killing and maiming of large numbers of Israelis in various attacks was negligible when compared with the fact that Israel, in order to protect itself, closed the gates to its territory to people which it was under no obligation to admit.

51. The height of hypocrisy had come from Iran, the purveyor of Islamic fundamentalist terror, and the crude misinformation disseminated by some NGOs - for example, about Israeli draft legislation that had never even been submitted to the Knesset.

52. Fortunately, several participants had pointed to the Palestinians' own responsibility to respect human rights and to the Palestinian Authority's clear failures in that regard, and had recognized the inadequacies of the Special Rapporteur's mandate.

53. Several speakers had also underlined the direct threat which terror represented to the peace process. Mr. Arafat had himself denounced the latest terrorist outrages in Israel and had signed the Sharm-el-Sheikh Declaration condemning terror in all its forms and whatever its motives. That did not seem to square with the intemperate outbursts of the observer for Palestine, who appeared to be representing no one but himself.

54. Mr. EGUZ (Observer for Turkey), responding to accusations just made by a NGO against his country, said that, in the Commission - a United Nations body made up of sovereign States - no one had the right to question the validity of international treaties that had given birth to independent Member States.

55. Turkey was a pluralist democracy, where the rule of law prevailed and free and fair elections were held regularly. It had no problem whatsoever with its citizens of Kurdish ethnic origin, more than 60 per cent of whom lived peacefully in the western portion of the country, where they fully enjoyed all the rights provided for all Turkish citizens by the Constitution. The most recent general elections in Turkey had been held on 24 December 1995. All Turkish citizens, whether of Kurdish or of other ethnic origin, had freely elected their representatives to the Turkish Grand National Assembly.

56. It was ironic that, at a meeting of the Commission on Human Rights, a NGO pretending to be a human rights defender should actually make threats and call for violence.

57. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that, notwithstanding the allegations by the representative of Indonesia that the people of East Timor had been able to exercise the right to self-determination, that territory was still considered to be a "non-self-governing territory" within the meaning of Chapter XI of the Charter.

58. In a judgement delivered on 30 June 1995 relating to the delimitation of the East Timor continental shelf, the International Court of Justice had recognized that that state of dependence persisted. It had judged as "irreproachable" Portugal's assertion that the right to self-determination, as it had evolved from the Charter and from United Nations practice, had an "erga omnes" character.

59. Challenged by the Portuguese Government to accept the jurisdiction of the International Court of Justice and abide by its ruling in the case, the Indonesian Government had so far failed to make any positive response.

60. Mr. WIDODO (Indonesia) recalled, for the record, that the Ministry of Foreign Affairs of Indonesia had issued a press release on 3 July 1995 welcoming the decision of the International Court of Justice in its entirety, including on the issue of self-determination. Indonesia had always recognized the right of the people of East Timor to self-determination. However, it interpreted the verdict of the Court as clearly rejecting Portugal's case with regard to both procedure and substance. The fact that the Court, the highest legal body in the United Nations, had rejected Portugal's claim to be the administering power of East Timor was undisputed and had never been denied by Portugal.

61. The case would be judged by history alone, although it might never be known whether the Portuguese had given anything to East Timor in 450 years of colonization and precisely why, on the night of 26 August 1975, they had abandoned East Timor, leaving their guns and munitions to their surrogates.

62. Mr. RAMLAWI (Observer for Palestine), said, for the benefit of the observer for Israel, that never in history had there been a case when a country had been authorized to perpetrate crimes to protect itself. As for the "terrorist acts" of the Palestinians, the international community made a clear distinction between terrorism and the right of peoples to combat foreign occupation, including in arms, in order to gain their independence and liberate their territory.

63. He would refrain from responding to the ridiculous remarks as to whether or not his words were representative of the views of President Arafat.

64. Mr. ASSADI (Observer for the Islamic Republic of Iran) said that he would not reply to the attacks made by the observer for Israel against his Government. What mattered most was that Israel should win support for the peace process from the Palestinian people living under occupation by demonstrating that it was a just peace, not by forcing it to accept the peace at the point of the bayonet.

65. Mr. de SANTA CLARA GOMES (Observer for Portugal) said that Indonesia's interpretation of the decision of the International Court of Justice appeared to contradict the terms of the decision itself. Nevertheless, he was very pleasantly surprised by the respect shown by the representative of Indonesia for the Court and hoped that Indonesia would accept that body's jurisdiction in future, and abide by its conclusions in the East Timor case.

66. Mr. LAMDAN (Observer for Israel) said that Iran would have to work hard to convince the international community that it was not a purveyor of terrorism and that it defended human rights. As for the remarks by the observer for Palestine, he regretted that once again that observer had confined himself to justifying the use of terror; it would have been preferable if, like the Palestinian President, he had condemned loud and clear the latest terrorist outrages in Israel and espoused the spirit of Sharm-el-Sheikh.

67. Mr. WIDODO (Indonesia) reiterated that history would judge the case of East Timor.

68. Mr. RAMLAWI (Observer for Palestine) said that the day the observer for Israel denounced his own Government for repeated human rights violations and the crimes committed since 1967 - crimes that had already been condemned by the Commission - he himself would denounce acts by individuals that were not State practices.

The meeting rose at 6.05 p.m.

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COMMISSION ON HUMAN RIGHTS

Fifty-second session

SUMMARY RECORD OF THE 8th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 March 1996, at 10 a.m.

Chairman:	Mr. VERGNE SABOIA	(Brazil)
later:	Mr. LEGAULT (Vice-Chairman)	(Canada)
later:	Mr. VERGNE SABOIA (Chairman)	(Brazil)

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CONTENTS (continued)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (continued)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF DENMARK

The meeting was called to order at 10.10 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (item 4 of the provisional agenda) (continued) (E/CN.4/1996/18-21, 108 and 120)

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (item 7 of the provisional agenda) (continued) (E/CN.4/1996/26 and 27)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (item 12 of the provisional agenda) (E/CN.4/1996/71 and Add.1 and 72 and Add.1; A/50/476 and 493; E/1995/111 and Add.1)

1. Mr. BERNALES BALLESTEROS (Special Rapporteur on the question of the use of mercenaries), introducing his report (E/CN.4/1996/27), which highlighted his work over the past year, said that mercenary activities had been duly confirmed in various armed conflicts and also in acts of international terrorism. There were numerous well-known instances of grave terrorist attacks involving mercenaries specially contracted, either because they were professional criminals or as a way of shielding those responsible for the crimes. Although mercenary activities he had previously reported in a number of African countries had ceased, as a result of substantial changes in the situation, there had been new cases in the Comoros and Sierra Leone, while mercenary-directed paramilitary training camps were reported in the Sudan.

2. Since 1992, he had dealt repeatedly with reports of mercenary activities in the former Yugoslavia. The documents and other information he had received indicated that a number of mercenaries had been involved in the armed conflicts there. All such mercenaries must be forced to leave the territories concerned and those accused of war crimes or grave violations of international humanitarian law and human rights must be prosecuted.

3. Mercenary activity was a form of criminality that facilitated the violation of the right to self-determination of peoples and of the human rights of peoples. It was essential, therefore, that the International Convention against the Recruitment, Use, Financing and Training of Mercenaries should soon come into force, although efforts could still be made to improve that instrument.

4. Mr. GJONET (Observer for Albania) said that acts of aggression, foreign military intervention and domination and denial of the expressed will of peoples concerning their political status had frequently led to open violations of human rights. In recent years, such acts had been followed by the outrageous phenomena of ethnic cleansing and forcible modification of the ethnic compositions of populations, acts that his Government condemned as being contrary to the right to self-determination. Selective criteria and double standards had also resulted in a blurring of the content of the right and of its practical consequences, thus weakening its force and limiting its application. Nevertheless, implementation of the right to self-determination opened up the opportunity for enjoyment of other individual human rights, while its denial was a real source of conflict and political instability.

5. The right to self-determination was manifested in various forms; its strict linkage with the concept of territorial integrity and the political independence of States did not adequately reflect its full content. In the past four years alone, Europe had witnessed a variety of manifestations of the right, from the creation of newly independent States to political unions between States and the redefinition of groupings inside existing sovereign States.

6. Lack of negotiation and of political dialogue had led to tragic events in the Balkans, which still remained a source of tension and danger to peace and stability. On the other hand, the ethnic Albanians of Kosovo were seeking a peaceful outcome through political negotiation with a view to defining the future political status of the region in accordance with international law. If their right to peaceful and democratic self-determination were denied, it could only lead to a tragic deterioration in the situation. If so, the parties responsible would be those that denied the right to self-determination, not those entitled to benefit from it.

7. Mr. TANDAR (Observer for Afghanistan) said that the international community, by appointing a Special Rapporteur on the subject, had acknowledged that the use of mercenaries was contrary to international law and human rights. Unfortunately, the list of countries that recruited mercenaries contained in the report (E/CN.4/1996/27) was incomplete. Massive attempts were being made to destabilize his country, and mercenaries were playing a fundamental role in those activities. Some dozens of mercenaries had been captured, a list of whose names would be submitted to the Special Rapporteur. It was interesting to note that over 98 per cent of them came from a single State, where they enjoyed full impunity upon their return from Afghanistan.

8. Mr. SIVAJI (International Educational Development Inc.) said that, in North-East Sri Lanka (also known as Tamil Eelam), 500,000 Tamils had been rendered homeless, many others had been held in extrajudicial detention, had disappeared or had been killed and Sinhalese efforts to reduce Tamils to the status of second-class citizens had led to a war situation and a plethora of violent acts and human rights abuses. The only way in which the Tamils could secure their survival was to exercise their right to self-determination and, since that right had been totally rejected by the Government of Sri Lanka, they appealed to the Commission to intervene on their behalf. Talks between the Liberation Tigers of Tamil Eelam and the Government of Sri Lanka, with international mediation, represented the only way to establish peace and security in the island.

9. Mrs. MARWAH (Indian (International) Council for Education) said that the debate on the right to self-determination remained inconclusive and its meaning was still as imprecise as when it had been enunciated at the beginning of the twentieth century. Most of the ethnic, national and regional movements of the last decade saw the right as a right to secede, a point on which international law was far from clear. While the United Nations had proclaimed a broad right to self-determination of all peoples, which seemed to imply a right to secede, it had defined that right as being available only to peoples trying to free themselves from colonial rule.

10. In view of the virtual completion of the decolonization process, the rapid escalation in violence both by States and by those opposed to them and the fact that national borders were no longer seen as being frozen by strategic interests as they had been during the cold war, it was urgent that the right be clearly defined.

11. Studies had shown that the demand for self-determination was based on grievances, the complainants maintaining that their peoples were exploited economically, ignored politically, treated as cultural inferiors, and deprived of their basic rights. In fact, continued neglect or mishandling of the demands for linguistic accommodation, regional autonomy, inequitable treatment in education and unemployment often turned proponents of autonomy into secessionists. The ethnic character and traditions of minorities must be respected to the maximum extent possible and minorities must be specifically authorized to practise freely their religions and to cultivate their languages. There would be no reason for a minority to separate itself from the State in which it found itself if that State gave it the guarantees to which it was entitled for the development of its social, ethnic or religious identity.

12. The idea of democracy must thus be augmented to encompass the scope of and limits to the right to secede. Only democracy could give minorities the opportunity to seek redress of their grievances, participate in the political process and, above all, enjoy freedom of expression and belief. Moreover, the orthodox categories of international law must be expanded to acknowledge new forms of political association and give groups an opportunity to make representations to international forums. Her organization therefore urged the Commission to give serious consideration to the imperative need to provide a clear definition of self-determination, its scope and its limitations.

13. Mr. NARANG (International Institute for Peace) said that, as the Special Rapporteur on the question of the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination had pointed out in his report (E/CN.4/1996/27), involvement in armed conflict was the best known form of mercenary activity but not the only one. For example, a mercenary might lend his services for the perpetration of criminal acts on behalf of a particular Power or group that wished to promote subversion or destabilization in another country, using the mercenary so that responsibility could be denied. That was exactly the way in which the human rights of the people of Jammu and Kashmir were currently being violated. The cadres of Harkat Ul Ansar, by that organization's own admission, were active in Kashmir, Bosnia, Tadjikistan and other countries.

14. The Government of Pakistan was allowing those cadres to recruit and operate freely and to prevent the return of peace to Jammu and Kashmir. When the issue of self-determination for peoples living under alien domination was being considered therefore, it was particularly necessary to identify and censure those elements that utilized the services of mercenaries to impose alien cultures and ideologies on people who merely wished for peace.

15. Mr. Legault (Canada), Vice-Chairman, took the Chair.

16. Mr. van PRAAG (Society for Threatened Peoples) said that many conflicts and systematic violations of human rights were directly related to the assertion and/or denial of the right to self-determination. It was therefore necessary to attempt to understand the essence of the problem.

17. Self-determination did not necessarily mean secession from an existing State, since a wide range of outcomes were possible. No right was absolute, not even a fundamental right, and the exercise of the right to self-determination must take account of other rights and principles, including the principle of territorial integrity. According to the General Assembly, territorial integrity might be invoked, against a claim to self-determination, by States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction as to race, creed or colour.

18. That raised the issue of the legitimacy of States and their Governments. A State existed for the sole purpose of protecting its population, promoting its economic, social and cultural welfare and representing its interests externally. Where a State did not fulfil those functions over a period of time, it lacked legitimacy whether in respect of the whole population or of that section of the population that it oppressed.

19. Having given some specific examples, he said that, the more a people was oppressed and its identity denied by its rulers, the stronger grew its determination to assert and protect that identity, even if that meant separation. The urge for separation would be enormously reduced, however, if States respected the desire of their diverse peoples to express their own values and cultural and spiritual traditions.

20. The issue before the Commission was thus not how to suppress the many calls for self-determination and the desire for national identification and recognition, but how to ensure that States respected the rights and aspirations of peoples and minorities within their borders and how the United Nations could protect those vulnerable groups from abuse and destruction. Failure to do so would result in still more outbreaks of violence as peoples which had hitherto refused to use violence in their struggle for survival concluded that they had no other resort in the face of violent suppression by the State.

21. Mr. AHADUZZAMAN (Afro-Asian People's Solidarity Organization) said that, according to the United Nations, the right to self-determination was applicable only in colonial situations yet there were many theorists who maintained that any people, simply because it considered itself to be a separate national group, was entitled to determine its own political status and set up its own State. In some instances, Governments had endorsed such calls while human rights activists had always defended the right of peoples to determine freely their own political status and to pursue their economic, social and cultural development, it was essential to define the context in which the freedoms sought could best be ensured.

22. The number of groups that could potentially demand their own statehood was enormous and far exceeded the number of States that could reasonably be

established as viable entities. Only 13 per cent of the world's States were ethnically homogeneous and less than 4 per cent of the world's populations lived in States the frontiers of which corresponded to ethnic boundaries. While the strength of the democratic structure lay in its ability to allow opposing groups to express their views, democracy would be endangered if the proposed new definition of self-determination were to become legitimate. Mankind could progress only when diverse ethnic, cultural and linguistic groups worked together, which was possible only in multi-ethnic States.

23. While it was imperative to preserve the rights and privileges of minority groups, it was equally essential, that in so doing, the established rights of others were not usurped. The Commission, instead of countenancing demands for secession disguised as self-determination, should urge States to respect article 27 of the International Covenant on Civil and Political Rights.

24. Ms. SHINOJI (World Peace Council) said that it was a mockery of the concept of self-determination when a Government manipulated the emotions of a peace-loving people in another country, merely because of a common religion, and created conditions of instability and fear. The repeated demands by Pakistan for self-determination for the people of Kashmir was a case in point, the more so as the inhabitants of those parts of the State of Jammu and Kashmir that had been forcibly occupied by Pakistan in 1947 still lived under colonial-type rule.

25. Minorities throughout the world were facing challenges to their basic human rights and it was the duty of the Commission on Human Rights to seek justice for them but the Commission could not endorse violations of the provisions of the Charter of the United Nations or of the international law pertaining to the right to self-determination. The Commission should thus consider situations in which the right to self-determination was being allegedly denied and ensure that support for such claims did not stem from political interests.

26. Ms. GARSTANG (Liberation) said that a number of disputes concerning the right to self-determination, including the situations of the Sikhs, the Kurds, the Tamils and the people of Jammu and Kashmir, had resulted in persistent human rights abuses and were threatening regional and international peace. The United Nations had remained on the sidelines of those conflicts and she urged the Commission to take a more realistic and sympathetic view of the populations involved and not to yield to the demands of the States concerned.

27. The Sikhs, the majority community of the Punjab, wished to protect their future by determining their own political status. India claimed sovereignty over the Punjab, while the Sikhs disputed that claim. Negotiations had failed since the Indian Government would allow a peaceful settlement of the matter only on its own terms. The Sikhs were seeking a peaceful means of resolving the dispute, but the United Nations did not currently offer a forum for doing so.

28. The Kurds, a community which was desperately seeking recognition of its status, were subjected to abuses in Turkey and Iraq. In Turkey, the Kurds remain frustrated in their efforts to gain self-determination by the oppressive policy of the Turkish Government.

29. While the representatives of India and Pakistan took up much of the Commission's time to discuss the Kashmir dispute, no one seemed concerned about the central issue of the right to self-determination of the Kashmiri people, which was suffering from human rights abuses, including numerous deaths.

30. The self-determination struggle of the Tamils in Sri Lanka had also resulted in serious human rights abuses, deaths and regional tensions. The attitude of the Government of Sri Lanka was similar to that of others in the region and there seemed to be little hope of a peaceful settlement.

31. Her organization neither endorsed nor criticized the struggles to which it had referred. It wished only to stress that, since there appeared to be little hope of regional solutions, the Commission should address those issues.

32. Mr. SAFI (Muslim World League) said that rather than taking steps to redeem its loudly proclaimed pledge to hold a plebiscite under United Nations auspices, India had endeavoured to strengthen its hold on Jammu and Kashmir in order to further its expansionist designs.

33. The dispute involved three parties: India, Pakistan and the peoples of Jammu and Kashmir and no attempt to negotiate an agreement between two of the parties without including the third could lead to a credible settlement. The international community was doing nothing to stop the carnage in a recognized disputed territory. The gap between its indifference in that particular instance and its repeated assertions concerning human rights and democratic solutions was difficult to understand. Peace in southern Asia and the very foundations of a civilized world order were at stake.

34. Mr. Vergne Saboia (Brazil) resumed the Chair.

35. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that, although the principle of self-determination for the people of the Western Sahara had been widely recognized, the referendum to which Morocco and the Frente POLISARIO had agreed was already four years overdue. Morocco's intransigence had hindered the implementation of the peace plan; and in particular, the identification of voters had been interrupted since the end of January. There was to be a gradual withdrawal of the personnel participating in the United Nations Mission for the Referendum in Western Sahara (MINURSO), the mandate of which ended on 31 May 1996. In the circumstances, she urged the Commission to take a firm stand on the matter and adopt a resolution which would draw attention to the responsibilities of the Government of Morocco, the logistic deficits of MINURSO and the apparent laxity of the Secretary-General's response to the behaviour of the Moroccan authorities.

36. The sporadic negotiations of Governments with individual Kurdish leaders did not alter the fact that the Kurds were entitled to the right of self-determination. Unfortunately, particularly in Turkey, they had not been able to exercise that right, being constantly and systematically silenced and oppressed, when not brutally massacred. The unilateral cease-fire declared recently by the Kurdish armed movement in Turkey had been contemptuously rejected and units of the Turkish army had recently entered northern Iraq.

37. The people of Kosovo should be given the opportunity to create their own State. If they sincerely wished to achieve peace and stability in the Balkans, Governments should recognize that leaving over two million ethnic Albanians under Serbian rule, against their political will, would be a grave mistake. The right to self-determination of the people of the autonomous territories (of which Kosovo had then been one) was explicitly stated in article 1 of the Yugoslav Constitution of 1974. The recognition of Kosovo's right to self-determination should be accompanied by a dialogue between the Albanian and Serbian authorities, under the supervision of the United Nations, the European Union or the Organization for Security and Cooperation in Europe (OSCE), to determine their future relationship.

38. Mr. PINTA GAMA (Brazil) said that the progress achieved in combating racial discrimination was being overshadowed by ethnic strife, the revival of racist doctrines and the emergence, especially in the North, of a xenophobic attitude towards vulnerable groups. Prompt individual and collective action was needed to combat those phenomena.

39. It was the duty of all States to tackle the underlying causes of racism and xenophobia. His country attached particular importance to implementation of the goals of the Third Decade to Combat Racism and Racial Discrimination and hoped that the United Nations system and other agencies concerned would continue to support the Programme of Action.

40. His delegation greatly appreciated the work of the various United Nations bodies involved in the combat against racism and racial discrimination and wished to acknowledge in particular the key role of the Committee on the Elimination of Racial Discrimination (CERD) in monitoring the compliance of States parties with the International Convention on the Elimination of All Forms of Racial Discrimination. After having established governmental structures to deal specifically with human rights issues and following consultations with a broad spectrum of groups, Brazil had submitted to CERD in November 1995 its tenth periodic report, thus meeting a long overdue obligation.

41. His delegation endorsed the view of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance that it would be necessary to conduct more missions around the world in order to have an overview of contemporary trends. He urged all countries to cooperate with the Special Rapporteur so that he could discharge his mandate in a fair and non-selective manner.

42. The conclusions and recommendations contained in the Special Rapporteur's report on his mission to Brazil (E/CN.4/1996/72/Add.1) would undoubtedly be of use to his own Government as it elaborated measures to improve the status of the black and indigenous communities and of people of mixed parentage. Certain recommendations had already been implemented by the Government in the context of initiatives aimed at reducing social inequalities and ensuring implementation of anti-discrimination laws.

43. His Government had recently set up an interministerial working group to consider and propose public policy with a view to improving the situation of the black population of Brazil. The working group, composed of

representatives of government agencies, universities and black groups, was currently discussing a list of issues, including affirmative action policies, special measures in the fields of education, social welfare and health, and the restitution of lands to descendants of former slaves who lived in quilombo communities. The working group would also be studying the image of black people projected by the media and the inclusion of racial criteria in official data and personal documentation.

44. The Government also planned to establish a tripartite working group on the elimination of discrimination in employment with a view to ensuring implementation of the provisions of Convention 111 of the International Labour Organization in relation to persons of African descent, women and underprivileged people.

45. His Government fully recognized the persistence of racial discrimination in Brazil although the country was by no means characterized by racial violence or segregation. The Special Rapporteur had rightly stressed the complexity and uniqueness of Brazil's social history and the fact that prejudice against people of African origin or mixed parentage occurred mainly on a social and economic basis, since such groups constituted a majority of the underprivileged.

46. The Special Rapporteur's reference to a "policy of ethnic genocide" was, however, entirely unjustified. Furthermore, he could not agree with the Special Rapporteur's interpretation that biological and cultural intermingling was a cause of social stratification and ethno-regional imbalance. In fact, miscegenation was viewed in Brazil as one of the most positive aspects of its society. Descendants of African slaves, and immigrants from Europe and Asia, felt more integrated in the Brazilian "melting pot" than in other multiracial societies and, as a result, physical appearance tended to prevail over racial classifications based on legal definitions or scientific theories. By creating innumerable gradations of skin colour, miscegenation had succeeded in curbing social tensions and avoiding serious divisions and segregation in Brazilian society. His Government was doing its utmost to reduce social inequalities so that multiracial democracy could become a reality.

47. Ms. ZHANG Fenkun (China) said that, despite the fact that numerous United Nations resolutions, declarations, conventions and the Vienna Declaration and Programme of Action had all denounced racism and racial discrimination as inherently inimical to the enjoyment of human rights, those twin spectres still haunted the world. In recent years, there had been an upsurge of xenophobia, ethnic exclusion, intolerance and neo-nazi extremism in some parts of the world. Racial and ethnic conflicts were not uncommon and sometimes even led to violence or war.

48. The intensifying political confrontation shaping up in the Commission should prompt serious reflection on the part of all its members. A number of developed countries wanted to impose their own political systems, models of economic development and human rights standards on others. Their hue and cry about human rights was merely a pretext to justify their racism and racial discrimination.

49. In view of the foregoing, the Commission should mobilize the international community to denounce all forms of racism and racial discrimination; vigorously implement the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination; advocate equality of all countries regardless of size, might or wealth; commend the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and put adequate funds at his disposal; and urge all the countries that had not yet done so to ratify or accede to the International Convention on the Elimination of All Forms of Racial Discrimination.

50. Ms. SCHMIDT (Women's International League for Peace and Freedom) said that, if the European Union was to be built on the establishment of a better and more prosperous Europe, the benefits and opportunities must be extended to all the people who lived in it, irrespective of their citizenship, status, skin colour or sex. The rising level of racism was, however, at odds with that vision. Unfortunately, the European Union had no legal competence to deal with race. It was therefore vital that participants in the 1996 Maastricht Review Conference should adopt a European directive for the protection of blacks, migrants and other minority groups which would add credibility to and strengthen existing declarations against racism and xenophobia.

51. She welcomed the Special Rapporteur's attention to the cases of human rights violations against foreigners in police custody in Germany indicated in her organization's 1995 statement on the item. The May 1995 Amnesty International report had heightened awareness and triggered a public debate which had led to the development by the German Police Academy of training programmes for the police; programmes that would, she hoped, be made permanent and obligatory as part of the continuing education and training of the police force.

52. The fight against xenophobia called for long-term policies designed to undo internalized racism. Politicians should acknowledge the threat that racism posed to the social fabric and design laws which promoted a culturally-diverse and harmonious society. While Germany had succeeded in stemming the tide of xenophobia, it was essential that its Government should publicly acknowledge that immigration was a permanent reality and develop a coherent immigration and integration policy.

53. Expressing her organization's deep concern that the Centre for Human Rights could not even begin to implement the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination due to a lack of human and material resources, she strongly urged all Member States to contribute to it.

54. Mr. CHANDRA (World Peace Council), speaking on behalf of a number of non-governmental organizations members of the NGO Sub-Committee on Racism, Racial Discrimination, Apartheid and Decolonization, said that, while there might be disagreement as to whether racism had economic roots, experience had shown that economic difficulties exacerbated or gave rise to racist manifestations. There was a seeming contradiction between the growing intolerance and hatred of "the other" on the one hand, and the growing interdependence of the world's peoples on the other.

55. Referring to the commitment made by the Member States at the World Conference on Human Rights to strengthen their efforts to implement a programme of action related to the Third Decade to Combat Racism and Racial Discrimination, he appealed to all Governments to take that commitment seriously and to contribute the funds needed to implement the Decade's Programme of Action which they had adopted. It was but a small investment when measured against the cost to society of racism and all other forms of intolerance, which increasingly led to wider conflict and even war.

56. Racism, racial discrimination and xenophobia were best dealt with at the national and local levels. The Declaration on Race and Racial Prejudice adopted by the UNESCO General Conference in 1978 stated that education was the key to the elimination of all forms of racial prejudice and racial discrimination and placed the responsibility for the promotion of education on States, all other competent bodies and the entire teaching profession. It was thus regrettable that no meaningful action had been taken to discharge that responsibility, ensuring that curricula and textbooks included scientific and ethical considerations concerning human unity and diversity and that no genuine effort had been made to mobilize the potential of the teaching profession.

Statements in exercise of the right of reply

57. Mr. SINGH (India) said that, at the previous meeting, his delegation had been dismayed by the diatribe and falsehoods uttered against India by the representative of Pakistan, a fellow developing country. Abuse and propaganda only degraded the debate on the promotion of human rights and reflected adversely on the dignity, and ultimately the credibility, of the Commission. The Commission must not be used by countries for their own bilateral, political, territorial or domestic ends. His delegation, for its part, would continue to try to depoliticize the debates on what were undoubtedly political issues.

58. While he rejected the statement by the representative of Pakistan, he wished to reiterate that all those participating in the current session of the Commission should make genuine efforts to step back from parochial agendas and to try and approach all issues in the spirit of cooperation and consensus.

59. Mr. KHAN (Pakistan) said that the principle of self-determination, was a valid one that could not be altered to suit the convenience of occupying forces or a colonial Power. The logic of India was that of a violator of the law who justified such violations on the premise that the law was itself defective.

60. While nobody believed the distorted Indian logic about self-determination, India's lease of life in Kashmir had frequently been extended by the harsh dictates of realpolitik and currently by the commercial interests of certain countries. Business elements in the developed countries were fascinated by attractive offshore locations for cost-effective enterprises and a hundred-million-strong prosperous middle class in India, not realizing that commercial empires could not be erected on the foundations of double standards, and the suppressed will of the people.

61. India was a "conflict entrepreneur" which had manufactured and sustained conflicts all around its neighbourhood, not even sparing its own populations. It had mounted a full-fledged war of aggression, involving massive human rights violations, against the innocent people of Jammu and Kashmir.

62. The principle of territorial integrity, so often invoked by representatives of India, did not apply to Jammu and Kashmir, a disputed territory that awaited a decision regarding its final disposition in accordance with United Nations Security Council resolutions. By honouring its commitments to hold a plebiscite in that territory, the Government of India would contribute to the universal realization of the right to self-determination.

63. Mr. BENJELLOUN-TOUIMI (Observer for Morocco) said, with reference to the statement made by the representative of the International League for the Rights and Liberation of Peoples, that unfounded and empty propaganda phrases were unacceptable and served no useful purpose. The lofty goal of respect for human dignity and the promotion of human rights could be attained by the Commission only through dialogue and all those who spoke in that forum should try to be constructive.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF DENMARK

64. Mr. PETERSEN (Denmark) said that, in addition to its endeavours to secure respect for human rights in all parts of the world, Denmark had some special expertise to offer in certain areas. The first of them was the prevention of torture, the prosecution and punishment of its perpetrators, and the rehabilitation and compensation of its victims.

65. Denmark had gained important experience in the field of rehabilitation through the presence in Copenhagen of the Rehabilitation and Research Centre for Torture Victims and International Rehabilitation Council for Torture Victims which had grown out of a pioneer venture set up by Danish doctors in 1973 to examine the physical and mental after-effects of torture. The working methods of the Centre and the results achieved over the years had been recognized internationally, and a large number of rehabilitation centres had been established in all parts of the world.

66. The next step would be to create a system of preventive visits to places of detention, as provided for in the draft Optional Protocol to the Convention against Torture, which his Government would like to see finalized as soon as possible. Moreover, any person who committed torture or ordered torture to be committed should be held personally responsible and tried by the permanent international criminal court which, he hoped, would be established in the near future.

67. Denmark also had particular experience in the field of indigenous peoples. The Inuit population of Greenland was an equal partner within the Danish Realm. The home-rule government established in 1979 had responsibility for almost all areas related to Greenland and experience had shown that the right of indigenous peoples to self-determination could be exercised in a way

which contributed to the development and plurality of society without breaking up the unity of the State and that the full and free participation of indigenous peoples strengthened the stability and unity of the nation.

68. His Government thus welcomed the International Decade of the World's Indigenous People and was pleased to announce that it had decided to contribute the equivalent of some US$ 200,000 to the Voluntary Trust Fund for the Decade. The major results of the Decade should be the adoption of a declaration on the rights of indigenous peoples and the establishment of a permanent forum within the United Nations to monitor their situation. The workshop held at Copenhagen in June 1995 had been the first positive step in a dialogue on the arrangements for such a forum. One way of supporting that dialogue would be to convene a second United Nations workshop, to focus on the establishment of a permanent forum, at the next meeting of the Working Group on Indigenous Populations and to hold regional consultations. In any case, indigenous issues should be dealt with in a separate item of the Commission's agenda.

69. The right to development required that all individuals and groups, should be able to take an active part in decision-making in their own countries. Every individual had the right to enjoy the fruits of development and every Government had the obligation to strive towards the realization of that right in its internal and foreign policies. If the right to development was pursued along those lines it might become the organic link between civil and political rights on the one hand and economic, social and cultural rights on the other. The right to development called for a comprehensive view of human rights which could bury the sterile confrontational debate as to whether certain rights should be given priority over others.

70. The most important goal of development was the eradication of poverty. The Heads of State meeting at the World Summit for Social Development had committed themselves to the goal of eradicating poverty in the world through decisive national action and international cooperation. Moreover, the General Assembly had proclaimed 1996 to be International Year for the Eradication of Poverty. The Commission on Human Rights should make its contribution towards realizing that goal.

71. The industrialized countries should meet the General Assembly's target of 0.7 per cent of GNP for development aid. For many years Denmark had used 1 per cent of its GNP for that purpose and would continue to do so in the future. Development aid must be supplemented by action to reduce the debt burden. At the World Summit for Social Development, his Government had announced its remission of bilateral development loans to an amount of almost US$ 200 million. It appealed to other donor countries to do likewise and looked forward to the proposals which the International Monetary Fund (IMF) and the World Bank were to present with regard to reducing the debt due to multilateral institutions. The human rights component should always be present in deliberations on development issues.

72. Other important subjects of concern to his Government included the integration of the status of women and the human rights of women into the mainstream of United Nations system-wide activities. The Commission could not confine its work on that issue to the question of violence against women.

73. There was no longer any shortage of legal instruments setting out the standards for the behaviour of States in the field of human rights. The current need was for a move from law to action in a more decisive and coherent way, so that promises could be implemented in practice. In that connection, the Commission had, over the past decade, moved decisively from law to action through its appointment of special rapporteurs on thematic and country-specific issues. The human rights treaty bodies also had an action-oriented approach.

74. The functions of the High Commissioner for Human Rights, including his efforts to restructure the Centre for Human Rights with a view to improving its effectiveness, still needed strengthening. If provided with adequate resources, the Office of the High Commissioner for Human Rights had the potential to develop into an effective mechanism. Securing human rights certainly cost money, but the cost of doing nothing was far greater.

75. The Decade for Human Rights Education offered a special opportunity to build defences against human rights violations and to create a culture of respect for human rights and fundamental freedoms. In that process, the many non-governmental organizations (NGOs), with their indispensable expertise, played a crucial role.

The meeting rose at 12.45 p.m.